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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

L.R. et al.,

Petitioners.

v.

THE SUPERIOR COURT OF ORANGE COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES AGENCY et al.,

Real Parties in Interest.

G046713

(Super. Ct. Nos. DP020253 & DP021423)

OPINION

Original proceedings; petitions for writ of mandate to challenge an order of the Superior Court of Orange County, Cheryl L. Leininger, Judge. Petitions denied.

Frank Ospino, Public Defender, Michael Hill, Assistant Public Defender,

Hong T. L. Nguyen and Dennis M. Nolan, Deputy Public Defenders, for Petitioner L.R. Craig McCabe for Petitioner S.M.

No appearance for Respondent.

Nicholas S. Chrisos, County Counsel, Karen L. Christensen and Julie J.

Agin, Deputy County Counsel, for Real Party in Interest Orange County Social Services

Agency.

Law Office of Harold LaFlamme and Linda O'Neil for Real Parties in Interest A.M. and Au.M.

* * *

INTRODUCTION

L.R. (Mother) and S.M. (Father) are the parents of A.M. and Au.M. A.M. was taken into protective custody in September 2010, when he was eight months old, and Au.M. was taken into protective custody in June 2011, a week after she was born.

In March 2012, the juvenile court held a combined 18-month review hearing on A.M.'s dependency case and six-month review hearing on Au.M.'s dependency case. At the conclusion of the hearing, the court made an order terminating reunification services for Father and Mother in both cases and setting a hearing under Welfare and Institutions Code section 366.26 (all further code references are to the Welfare and Institutions Code). The section 366.26 hearing is scheduled for July 17, 2012.

Mother and Father each have filed a petition for writ of mandate challenging the order. Mother challenges the ruling as to Au.M. only. Mother argues the court erred by finding there was no substantial probability of returning Au.M. to her physical custody within six months because substantial evidence did not support the findings that she failed to make significant progress in her reunification plan. In his writ petition, Father argues he was not provided reasonable reunification services because he was required to change therapists halfway through the final six months of reunification services. Father's petition generally refers to "two children," so it is not clear whether the petition is directed to both A.M.'s dependency case and Au.M's dependency case. In

his reply, Father makes a broad-based challenge to the order by arguing he had complied with every part of his case plan.

The Orange County Social Service Agency (SSA) has filed opposition to the writ petitions. Counsel for A.M. and Au.M. also has filed an opposition to the writ petitions. A.M. and Au.M. essentially make the same arguments as SSA.

We conclude substantial evidence supported the court's extensive findings and therefore deny both writ petitions.

FACTS AND PROCEDURAL HISTORY

I.

Father's History of Domestic Violence

We start by laying out Father's history of domestic violence because this history is important to understanding the case and the ruling.

- 1. Irvine Incident. Father was arrested on charges of domestic violence in July 2009 in Irvine. According to the police report, a witness saw Mother and Father inside a sport utility vehicle and heard them arguing. The witness saw "[Father] use his right fist and swing in a backwards motion striking [Mother] in the front torso area." The witness was "sure" that she saw Father strike Mother with his fist. Father was arrested, but no charges were filed against him.
- 2. Courthouse Headbutting Incident. Father was arrested on charges of domestic violence again in September 2010 in Orange County. The sheriff's report reported the following. While waiting in the courtroom hallway for the detention hearing on A.M., Mother and Father started to argue. Mother placed her hand on Father's mouth and told him to "leave and go home." A witness saw "what appeared to be [Father] headbutting [Mother]," who sustained a cut lip.
- 3. *Moreno Valley Incident*. Father was arrested on charges of domestic violence in November 2010 in Moreno Valley. This arrest occurred when Mother was

two months' pregnant with Au.M. According to the sheriff's report, Mother's cell phone rang while Mother and Father were seated in a parked vehicle. When Mother tried to answer the call, Father became upset and yelled, "[g]ive me the f[]ing phone." She refused, so he got out of the vehicle, walked around to her side, opened the door, and attempted to take the phone away from her. She would not let go of the phone, and he "slapped her across her face against her left cheek with the back of his left hand." Father wrested the cell phone from Mother and ran away. The sheriff's deputy asked Mother if she wanted to have Father arrested. She replied, "[y]es, I'm tired of this shit." Father was arrested, convicted of domestic violence, sentenced to informal probation, and ordered to attend a 52-week batterer's intervention program.

4. *Truck Incident*. The Truck Incident occurred in August 2011.

According to Mother, Father drove off in his truck while Mother was getting in or out of it. Mother fell to the ground and was injured. Father testified that while he was backing up his truck, Mother knocked on the window and asked him to open the door so they could talk. Father said he did not want to talk, and drove off at a speed of about five miles an hour. Father looked back and saw Mother on the ground. He did not know how she fell.

II.

A.M. Dependency

A.

Protective Custody/Jurisdictional Hearing

In September 2010, Costa Mesa police officers found A.M. living with Mother and Father in a commercial office building used for constructing and repairing boats. Hazardous chemicals and toxic airborne particles were present in the living quarters, which reeked of urine. A.M.'s belongings were strewn on the floor. Two coffee mugs were filled with urine. The bathroom had no running water or electricity,

and there were exposed wires and an empty, unplugged refrigerator. Mother and Father told the officers that they had been living in the building off and on because Father could not afford a motel.

A.M. was taken into protective custody and a juvenile dependency petition was filed a few days later. The petition asserted failure to protect under section 300, subdivision (b). The petition alleged Mother had an "unresolved substance abuse problem" and both Mother and Father had an "unresolved anger management problem," those problems impaired their abilities to provide A.M. with regular care, protection, and support, and neither Mother nor Father had a record of successfully completing an anger management program. The petition alleged Mother and Father have "a history of domestic altercations with the last incident being in approximately August 2010."

The petition alleged Mother had two other children by a different father and those two "half-siblings" had been declared dependent children of the Riverside County Juvenile Court due to neglect by Mother and the father. Mother failed to complete her court-ordered service plan and family reunification services were terminated. The petition alleged: "[M]other has been provided with numerous services by the Riverside County Juvenile Court, and the Social Services Agency/Community Agencies including, but not limited to Emergency Response Services, Family Reunification Services and Substance Abuse Rehabilitation Services. Despite these extensive services the child's mother has failed [to] protect the seven[-]month old infant, A[.M.] from harm and/or risk of harm."

On September 8, 2010, the juvenile court ordered A.M. be detained under SSA's custody and placed him at Orangewood Children's Home. Later, A.M. was placed with the maternal great-grandparents, and, ultimately, with the maternal grandmother.

A jurisdictional hearing was conducted in November 2010. The juvenile court found the allegations of the petition (as amended by interlineation) true by a preponderance of the evidence.

Dispositional Hearing/Reunification Services for Father

A dispositional hearing was conducted in January 2011. The juvenile court declared A.M. a dependent child of the court under section 360, subdivision (d) and vested custody of A.M. with SSA. The court ordered reunification services for Father as recommended by SAA in a report dated October 6, 2010, and denied reunification services to Mother pursuant to section 361.5, subdivision (b). Father's case plan included completion of a program of domestic violence counseling and a parenting class, and required him to provide and maintain "stable, suitable housing" for A.M., and to submit to random drug testing. In February 2011, the court amended Father's case plan to include completion of a program of anger management counseling.

In January 2011, Father reported to the social worker that he and Mother were "essentially homeless." He reported too that he had secured full-time employment working on boats. He did not believe A.M. should have been removed from his custody, claimed the place where he and Mother had been living was not "as bad as described" in the SSA report, and denied that A.M. had been exposed to hazardous materials. Father denied any history of engaging in domestic violence or drug abuse.

In March 2011, Father began "IPP mental health counseling" with a bilingual therapist, Irene Bernal, who prepared an assessment and treatment program for him. Two months later, Father was terminated from the counseling program because he failed to appear for five sessions. Father was reinstated to the program and resumed counseling in June 2011. Father failed to attend weekly 12-step meetings as ordered by his case plan.

Father began attending parenting classes in May 2011 but was terminated from the program after he was late to the final class session. The instructor recommended that Father be reinstated to parenting classes with a different instructor as

she "no longer feels safe having the father in her parenting program." A month later, Father enrolled himself in another parenting program.

Father visited A.M. every week for four hours, as permitted by the visitation plan. The monitor described Father's interaction with A.M. as "very positive and affectionate," and noted that Father "consistently attend[ed] to the child's needs by feeding him, changing his diaper as needed and playing with him during the visits."

In April 2011, the assigned social worker learned that Mother was pregnant and expecting to deliver in June. Mother had been visiting A.M. regularly and no problems had been reported.

The SSA status review report, dated June 29, 2011, concluded Father "remains out of compliance with his Case Plan activities" and recommended termination of reunification services for Father (Mother did not have reunification services) and the scheduling of a section 366.26 hearing for A.M. An addendum report of the same date reported that the maternal grandmother had been "an excellent caregiver" for A.M., but was unable or unwilling to adopt him. For that reason, the report concluded, "it is likely that the child is adoptable however; there are factors which suggest termination of parental rights may be detrimental or undesirable."

The six-month review hearing, scheduled for June 29, 2011, was continued by stipulation to August 2011.

III.

Au.M. Dependency

A.

Protective Custody/Jurisdictional Hearing

Mother gave birth to Au.M. in June 2011. Au.M. was born full term and weighed eight pounds 7.8 ounces at birth.

Mother had been instructed to inform SSA when and where her child was born. Mother did not comply and instead moved between three counties to evade SSA and prevent it from removing Au.M. SSA soon caught up with Mother, finding her at her grandmother's home in Irvine. Au.M. was taken into protective custody "[d]ue to the mother's ongoing substance abuse, failure to comply with her Court ordered case plan to attend substance abuse counseling and domestic violence counseling, evading [SSA] in an attempt to hide this child, and non-compliance with her current visitation plan regarding her two older boys."

Mother told the assigned social worker that she broke up with Father after she became pregnant. Father was present when Au.M. was born, but Mother had not seen him since then. Mother testified that when she and Father were together, he was married to a different woman. Mother did not have a stable housing arrangement; she stayed with a friend some days and with her grandmother on others. Mother was not working and told the social worker her family helped her financially. Mother also told the social worker that she began using methamphetamine five years previously and used it for the first two or three months of pregnancy with Au.M.

A few days after Au.M. was taken into protective custody, SSA filed a juvenile dependency petition (the Au.M. Petition) alleging counts for failure to protect (section 300, subd. (b)) and abuse of sibling (section 300, subd. (j)). The Au.M. Petition alleged Mother had a history of substance abuse, instability, domestic violence, and had failed to reunify with her three other children. The Au.M. Petition alleged Mother had an unresolved problem with methamphetamine, which she admitted using during the early months of her pregnancy with Au.M., and for which she has no documented proof of completion of a substance abuse program. The Au.M. Petition also alleged that Mother failed to participate in regular prenatal care, and that both Mother and Father had evaded SSA and failed to notify it when Au.M. was born. As to Father, the Au.M. Petition alleged he had a history of "neglect and domestic violence" pertaining to A.M. and had

failed to comply with his case plan. Both Mother and Father, the Au.M. Petition alleged, had received extensive family reunification services, but Mother had failed to reunify with A.M. and her two other children, and Father had failed to reunify with A.M.

В.

Detention Hearing and Jurisdictional/Dispositional Hearing

At the detention hearing on July 1, 2011, the juvenile court ordered Au.M. detained under SSA's custody. The detention order permitted Mother and Father each to have a minimum of two monitored visits per week with Au.M. The order stated, "[p]arents['] visits with child are to be separate." Au.M. was placed with her paternal cousin, V.V.

Meanwhile, Father had been reinstated into a therapy program and, according to his therapist, was presenting a "new attitude" and "now reports to accepting responsibility for his actions and realizes the seriousness of the situation." In a report dated in mid-August 2011, the assigned social worker stated: "The father's IPP therapist reported on the father's consistent therapy attendance since reinstatement on June 7, 2011, and described the father's new found attitude change in therapy. It appears that the father has not transferred his new found attitude change to working with the SSA staff. The father has failed to maintain contact with the undersigned. The father no-showed to the previously scheduled meeting with the undersigned on July 12, 2011, and has not returned the undersigned's numerous telephone messages." The social worker reported Father had not returned telephone messages about enrolling in a Spanish-language parenting program and, as of August 11, had not enrolled in the program. "Further, the father has failed to present proof of once-weekly 12-Step meeting attendance."

Following the jurisdictional/dispositional hearing on August 18, 2011, the juvenile court found the allegations of the Au.M. Petition true by a preponderance of the evidence, declared Au.M. to be a dependent child of the court under section 360, subdivision (d), vested custody with SSA, and approved SSA's proposed case plan and

visitation plan. Father's case plan included participation in and completion of a program of domestic violence counseling and a parenting class, and participation in a 12-step program. The court found, pursuant to section 361.5, subdivision (b)(10), that reunification services need not be provided to Mother. Mother and Father each were permitted two weekly monitored visits with Au.M.

Also on August 18, 2011, the juvenile court conducted a six-month review hearing on A.M. Despite finding that Father's case plan progress had been minimal, the court continued Father's services to a 12-month review hearing.

IV.

Combined 18-month Review Hearing (A.M.) and Six-month Review Hearing (Au.M.)

The combined 18-month review hearing for A.M. and the six-month review hearing for Au.M. was conducted over several days in March 2012. The juvenile court received in evidence the following reports: (1) SSA report dated March 2, 2012 (A.M.); (2) SSA addendum report No. 1 dated March 2, 2012 (A.M.); (3) SSA report dated February 21, 2012 (Au.M.); (4) SSA addendum report No. 1 dated March 2, 2012 (Au.M.); (5) SSA addendum report No. 2 dated March 12, 2012 (A.M.); (6) SSA addendum report No. 2 dated March 12, 2012 (Au.M.); (7) SSA addendum report No. 3 dated March 19, 2012 (A.M.); and (8) SSA addendum report No. 3 dated March 19, 2012 (Au.M.). The following people testified as witnesses: Kaytlin McCallister, V.V., Francisco Perez, Father, Irene Bernal, and Mother.

A.

SSA Reports

The reports established the following facts.

Between August 20 and November 17, 2011, Mother visited Au.M. three times, and between August 20 and November 9, 2011, Father visited her three times.

Neither Mother nor Father visited Au.M. between October 14 and November 9. By March 2012, Mother had visited "consistently" and "ha[d] not missed any visitations," and although Father had "generally visit[ed] regularly," he had missed three visits after November 9.

The juvenile court had ordered Father and Mother to visit A.M. and Au.M. separately; however, Father and Mother appeared together at V.V.'s home to visit Au.M. on one occasion in August 2011 and on another occasion a month later. Mother and Father used each other's cell phone. Mother and Father repeatedly denied visiting Au.M. together, but, when presented with photographs of a joint visit, each blamed the other and denied knowing the other would be there.

Father admitted to V.V. he had slapped Mother on August 21, 2011. Father was not honest with his therapist and did not tell her about the slapping incident. The therapist reported, "[w]hat [Father] reports is not consistent with what the social worker reports i.e., . . . [Father] did not share the slapping incident with [Mother,] and [Father] reports no contact with [her]." In September 2011, Father's therapist reported that "father continues to deny having contact with [M]other and denied the slapping incident."

V.V. recorded and played for the social worker a conversation between V.V. and Mother on August 20, 2011. In that conversation, Mother stated: "He [father] hits me all the time. I love him so much, why does he hate me so much? What did I ever do? This is not my fault." Mother related to V.V. the Truck Incident. V.V. previously had noticed the injuries, but Mother had said she had fallen off a bicycle. In the recorded conversation, Mother admitted she had lied to V.V. When, during the recorded conversation, V.V. asked Mother why she put up with Father's abusive behavior, Mother replied, "I have no where else to go."

The degree of Father's progress in therapy could not be measured because Father "continued misleading . . . the therapist." For that reason, in December 2011, Father began mental health counseling with a new therapist, Francisco Perez. The new

therapist reported that Father punctually arrived at therapy sessions and actively participated in them. He admitted "non-compliance problems with attending therapy" with the previous therapist and stated he understood "the expectations for the participation [i]n therapy." The new therapist reported: "I confronted [Father] with the reports of domestic/spousal abuse incident on August 20, 2011 (driving off with the mother of child still attached) and issues of dishonesty with previous therapist and social worker(s) [about] maintaining contact with [M]other . . . in spite of order not to do so. He admits that he must be truthful now or he is at risk of losing custody of his child. [Father] further stated that he understands that the undersigned will continue to communicate with the assigned social worker and any disparities in 'communications' will not be tolerated and will carry serious consequences for him, including termination of counseling with me."

As of December 8, 2011, Father had completed 24 weeks of a domestic violence batterers' treatment program. The program report stated Father "continues to express a positive attitude towards completing social services requirements." In November 2011, Father completed orientation into parent support group counseling and, as of early January 2012, had completed all but three sessions of the eight-week program. Because of scheduling issues, Father was relieved of the obligation to complete the parent support group program and would receive parenting support from his therapist.

Father's case plan included attendance at 12-step meetings three times each week. In mid-December 2011, Father submitted four 12-step meeting cards which indicated three times weekly attendance from July 2011 through December 4, 2011.

As to Father, the reports concluded: "Throughout the 18-months of Family Reunification Services, [F]ather has been provided with ample opportunity and resources to address his case plan responsibilities. [F]ather has physically attended his weekly classes which gives the impression of [F]ather being in compliance with his case plan responsibilities. However, there remains a significant difference between just merely

attending the classes vs. actually listening, accepting, learning and incorporating the concepts and ideas taught in the classes to everyday behavior. [F]ather's failure to incorporate the lessons learned from his classes have been reported and highlighted to the Court in court reports." As of February 21, 2012, Father's compliance with his case plan was described as moderate.

Although the juvenile court did not order reunification services for Mother, she completed a substance abuse program and a parenting program. In an SSA report dated January 30, 2012 (not received in evidence), Mother's substance abuse program instructor stated Mother had "made significant progress" and was "very impressed with her turnaround."

In January 2012, Mother filed a request for reunification services as to Au.M., based on changed circumstances. On January 30, 2012, the juvenile court granted Mother's request for reunification services. Mother was provided referrals to a "Personal Empowerment Program," a domestic violence support group, a parenting program, an outpatient substance abuse program, and mental health counseling. As of February 1, Mother had completed mental health counseling, and was enrolled in a personal empowerment program and a domestic violence support group, and, by mid-March, was attending 12-step meetings. Her therapist reported that Mother "seems very motivated to stay off drugs" and "is making major efforts to attend sessions and visits and to comply with her reunification plan." The SSA addendum report, dated March 2, 2012, stated Mother "appears to be in compliance with her case plan responsibilities."

As to A.M., SSA recommended termination of reunification services, and, as to Au.M., SSA recommended continuation of reunification services.

The March 19, 2012 addendum reports included police reports for the Irvine Incident and for the Moreno Valley Incident.

Witness Testimony

1. Kaytlin McCallister

Kaytlin McCallister was the SSA social worker assigned to this case. She testified Father was not ready to reunify with A.M. or Au.M. and had not made sufficient progress in his case plan because Father continued to have domestic violence issues and had lied about not having had any contact with Mother.

McCallister described Father's compliance with his case plan as "minimal." She confirmed that Father attended nearly every visit with A.M. and Au.M. since September 2010, had attended nearly every session of his 52-week domestic violence program in Riverside County, and had attended nearly every individual therapy session. She explained that she had described Father's compliance as minimal because "[i]t's one thing to physically attend classes and sit through them. That's one part. The other part is to actually engage in the program of the classes, whatever is being taught, and be honest about what's really going on in one's life; acknowledge the problems one is having, meaning being honest about what is going on and taking personal responsibility for one's behavior[] and actions."

McCallister had listened to the recorded telephone conversation between Mother and V.V., and believed Mother was being honest when she said that Father had hit her. Father had told McCallister that Mother's statements on the recording were false, which led McCallister to conclude Father was not able to be honest about and take personal responsibility for his actions. McCallister testified: "In the cycle of domestic violence, which I believe [is] similar to the addiction process, again, if one doesn't acknowledge that there is a problem and one is behaving in a certain fashion, they cannot change their behavior[]."

McCallister testified Father called once to cancel an appointment with her but later told his therapist that McCallister had cancelled the appointment. She did not

believe there had been a miscommunication or misunderstanding. McCallister confronted Father and told him he had lied. This incident was significant to McCallister because "[h]onesty . . . is very important in this situation in order for a person to change . . . behavior[]."

When asked if she believed Father would be able to reunify with Au.M. if services were extended for another six months, McCallister testified: "My hope is that [F]ather would make more progress if given more time. I think the problem right now is that [F]ather is not being honest and acknowledging his behavior[]. That is what is holding up the process. If he would become honest, really talk about what is going on in his life, the events, . . . the concerns that I have, . . . why he behaved the way he did, why he lashed out at [M]other, only then can he really start making progress and start to change his behavior[]." When asked the same question as to reunifying with A.M., McCallister testified, "I guess not because he has not been honest for the 18 months."

According to McCallister, she had told Mother and Father before August 20, 2011, they were not to visit A.M. or Au.M. together, but Mother and Father disobeyed that order.

McCallister testified that Mother had been granted reunification services and was following her case plan "to a T."

2. V.V.

V.V., who was Au.M.'s caretaker, testified that Father was scheduled to visit Au.M. at 3:00 p.m. on September 4, 2011, during a birthday party for his niece at a park. Mother and Father arrived together in the same car and stayed at the party until 7:00 p.m. V.V. had not invited Mother to attend the party and did not drive her or Father to the party from her house.

Photographs taken at the birthday party confirmed both Mother and Father were there. Previously, on August 20, 2011, Mother and Father arrived together for

Father's scheduled visit with Au.M. In fact, Mother and Father visited together "the majority of the time[]."

V.V. testified her home/business telephone answering machine advises callers their calls may be recorded. V.V.'s answering machine recorded a conversation between Mother and V.V. from August 20, 2011. In this conversation, Mother said she was upset because she had been fighting with Father, whom she described as "a very abusive person." For 18 to 20 minutes, Mother, who was crying, talked about the reasons A.M. and Au.M. were taken into protective custody and "indicate[d]" that Father recently had been violent to her. V.V. told Mother that she was stupid for putting up with "that type of violence" and that Father "needed help."

Sometime before August 20, 2011, Mother had arrived with Father at V.V.'s home. Mother had scrapes on her elbow, shoulder, hand, and leg. V.V. asked her what had happened, and Mother said she had fallen from a bicycle. During the recorded telephone conversation on August 20, Mother said her scrapes were caused "by [Father] dragging her from the truck" and she "was being beat up all the time."

After August 20, 2011, V.V. would not let Mother and Father come to her house together. Soon thereafter, Mother accused V.V. of being a liar. Father called V.V. and said he had slapped Mother because she had spit on him. V.V. recorded her conversation with Father. The juvenile court listened to the audio recording, which was translated into English. In the conversation, Father said: "I told [Mother] to get the f[] out of here, you f[]ing bitch, f[]ing bitch. Well, she got me pissed off, you know, so I slapped her because[,] hey, I hit her." (Italics omitted.)

3. Francisco Perez

Francisco Perez, a licensed clinical social worker, began giving Father therapy sessions in December 2011 and, from then until the time of the hearing, had provided him a total of 10 sessions, each of about 50 minutes in length. Father had been compliant in scheduling and attending sessions.

Perez initially was asked to work with Father on the issues of honesty and domestic violence, and, recently, had been asked to work with Father on parenting skills too. On the issue of domestic violence, Perez worked with Father "to help him to explore his personal behavior[], for him to describe to me how they affect other people, how he expresses anger, how he identifies the different forms of anger, frustration." Perez believed Father listened to him and accepted his advice, and rated Father's progress as eight on a scale of one to 10. Perez was not concerned that Father would again engage in domestic violence and did not believe he presented a risk to A.M. and Au.M. Perez would have permitted Father to have unsupervised visits with A.M. and Au.M., but not overnight visits.

Perez believed that with an additional three and a half months of therapy, Father would be ready to have custody of A.M. and Au.M. Perez had related this conclusion to the social worker, but she questioned his opinion and told him to speak again with Father about the incident in which Mother fell out of the truck and the photographs showing Mother and Father together while visiting Au.M. Perez did so, and testified Father took responsibility for his actions. Perez testified he believed the social worker was not listening to him and accepting his opinions.

At the beginning of therapy with Perez, Father acknowledged he had not been honest with the first therapist and had had some difficulties with her, the social worker, and Mother. Father was angry and would get defensive to protect himself from what he perceived to be an abusive system set against him. He told Perez during therapy sessions that he had had several "altercations" with Mother, most of which were verbal, and at least one of which was physical. Father acknowledged he should not "get physical and argue and struggle with [M]other."

Perez was not "a hundred percent satisfied" that Father was trying his best to be honest, and Perez characterized honesty as "the breakthrough issue." Perez testified: "[Father] has come across to me as somebody who has difficulties with

[M]other, and perhaps with authority figures, but he comes across as being very caring about his children as a father. And clinically he does not present a history of physically being violent with the children; not just his children but other children as well." Perez testified he had not had enough therapy sessions with Father to render an opinion on the possibility of returning A.M. and Au.M. to Father's custody.

Other than the Truck Incident, Father never told Perez of any incident in which Father hit Mother.

4 Father

Father testified he had four children, one by adoption, from a previous marriage. At the time of the review hearing, those children were ages 21, 17, 14, and 11. He had been in a "relationship" with his first wife for 18 years, and claimed he never had a physical fight with her. Father testified the social worker in this case only once asked him about his relationship with those four children, which he described as "[g]ood."

Father broke up with Mother about three months before Au.M. was born. Father testified they broke up because "she wanted to be with me and I didn't want to be with her." They never married.

Father testified he argued with Mother at V.V.'s house on August 20, 2011 because it was not Mother's day to visit and he had asked her to leave. Mother would not leave, so Father did. Father denied arriving with Mother to that visit, denied hitting her during the argument, and denied ever slapping her. Father did not remember whether he told V.V. that he had slapped Mother.

Father denied arriving with Mother at the birthday party on September 4, 2011. He testified it was his day to visit and Mother "show[ed] up."

Several months before the review hearing, Father was at a laundromat washing his clothes, and Mother "appeared." She confronted Father with a photograph of another person holding Au.M.

Father explained the Courthouse Headbutting Incident as follows. Father and Mother argued in the hallway. Father went to the drinking fountain and bent down to take a drink. He sensed someone close behind him. He stood up from taking a drink, turned around, and his face accidentally hit hers. Father was arrested.

Father denied hitting Mother during the Irvine Incident. He testified that while he drove his truck, Mother became "very irritated" and "started to hit me in my arm." He tried to calm her, but he was stopped by an Irvine police officer and arrested.

Father testified that, in the Moreno Valley Incident, he had taken his cell phone from Mother's hands because he wanted to call his brother and Mother would not give him his phone. When Father finished the call, he gave the phone back to Mother, she left, and "that is all that happened." About two months later, police officers arrested him. He was convicted of domestic violence.

As for the Truck Incident, Father testified that while he was backing up his truck, Mother knocked on the window and asked him to open the door so they could talk. Father said he did not want to talk, and drove off at a speed of about five miles an hour. Father looked back and saw Mother on the ground. He did not know how she fell.

As to the appointment cancellation incident, Father testified he called McCallister to cancel an appointment, and she said that was "fine" but they would need to make another appointment. Later that day, when Father arrived for a therapy appointment with Bernal, she asked about his appointment with McCallister. Father said, "[s]he canceled." He had interpreted McCallister's comment about rescheduling to mean they had both cancelled, but later realized he misspoke and he should have said, "I canceled the appointment." After that, McCallister asked him many times why he had lied. That incident and another one made Father unwilling to say much to McCallister. In the other incident, Father had told McCallister he had doubts whether he needed to go to a 12-step program. McCallister wrote in a report that Father had said "[p]rove it to me," which Father denied saying.

5. Irene Bernal

Irene Bernal, a licensed clinical social worker, saw Father once a week for about six months, starting in June 2011, until she was replaced by Perez. During the course of therapy sessions, she and Father discussed his relationship with Mother and his arrests on charges of domestic violence. She believed Father had learned the reasons for his arrests and accepted responsibility for them.

Father had discussed with Bernal the Irvine Incident and the Moreno Valley Incident. He had told Bernal that he did not have a history of domestic violence and anger problems, but his relationship with Mother caused him to have "angry feelings." Bernal believed that Father had "learned what domestic violence is, what is acceptable behavior and what is not" and knew "what abuse is, emotional abuse, physical abuse."

As to the cancelled appointment incident, Bernal believed Father and McCallister had a miscommunication. McCallister had spoken with Bernal about that incident at least three times and had told her, "I feel that [Father] lies, that he lied about that situation."

Bernal testified that during August and September 2011, she had asked Father at least every other week whether he had contact with Mother. Father denied having had any contact with Mother and told Bernal, "I don't have anything to do with her."

Bernal did not believe Father was a pathological liar. She described Father, who did not miss any weekly appointments, as "open and receptive" to learning, and believed he was making "good progress" in therapy. She testified that Father had told her he was frustrated with the social worker because she did not allow him more visits with A.M. and Au.M., did not work with him on scheduling meeting times that did not interfere with his work, did not understand him, and was "extremely hard on him."

Bernal testified that changing therapists, after six months of weekly sessions, would be disruptive and could slow the patient's progress.

6. Mother

Mother testified that Father committed physical, emotional, and verbal domestic violence against her. Father engaged in emotional or verbal violence by yelling at Mother and calling her names. Mother yelled at Father too, and she acknowledged she often started the arguments.

During Mother's three-year relationship with Father, he committed physical violence against her five to six times. The first incident was the Irvine Incident. Mother acknowledged she was the physical aggressor in that incident. While they were driving in his truck, she was hitting Father and he pushed her to the side to protect himself. When A.M. was six months old, Father and Mother got into a heated argument, and Father grabbed A.M. from Mother's arms. Mother was scared but not injured.

The next incident of domestic violence was the Courthouse Headbutting Incident. Mother testified she hovered closely over Father while he was drinking at the water fountain. He stood up and butted his head against her mouth. Mother demonstrated physically how Father threw his head to the side and backwards in a butting motion.

The next incident of domestic violence was the Moreno Valley Incident. Mother testified Father wanted to use his cell phone, which Mother was holding. Mother told him no, and Father grabbed the phone from her hands. When asked what was physically violent about the incident, Mother testified, "[h]e was aggressive when he was grabbing the phone from me." Mother was not injured; Father's only physical contact with her was to touch her hands while grabbing the phone. She reported the incident to the police, and a restraining order against Father was issued.

The next incident of domestic violence was the Truck Incident in August 2011. Mother testified she had asked Father for a ride to see Au.M. He refused and got into his truck. As Father drove off, Mother held onto the back of the truck until she tripped on a bump in the road and fell off. She had scrapes on her legs from the incident.

Mother testified that Father was driving slowly. Mother acknowledged she lied by telling V.V. she fell out of the truck.

The Truck Incident was Father's last act of physical domestic violence. Mother testified the only time Father hit her was during the Courthouse Headbutting Incident. She denied that Father had ever slapped her, and testified Father lied when he told V.V. he had slapped Mother.

Mother acknowledged both she and Father were at V.V.'s house to visit Au.M. on August 20, 2011. But according to Mother, V.V. had told her she could visit "whenever" on that day. A friend dropped off Mother near V.V.'s house, then, as Mother walked to V.V.'s house, she saw Father drive up in his truck. Mother and Father stayed at V.V.'s house for about two hours and left at the same time. Mother had her friend follow Father to a Wal-Mart, where Mother got out of the car and asked her friend to leave. Mother confronted Father and asked him why he did not want to be with her. He yelled and swore at her, and told her to "get the heck away from him." Mother yelled back at Father. Mother considered Father's behavior to be violent and verbally abusive because he yelled at her and called her names. Although Mother considered Father's conduct to be a violation of the restraining order, she did not report the incident.

Mother testified she lived off and on with Father in a motel room until sometime in July 2011, when Father ran out of money and told her to leave. Thereafter, Mother lived with her grandmother for awhile and then off and on with a friend. After Mother and Father separated in July 2011, they spoke by telephone once or twice a week until about five or six months before the review hearing.

Mother testified V.V. invited her to the birthday party in the park on September 4, 2011. A friend dropped Mother off at V.V.'s house, and Father arrived about 10 minutes later. Mother testified V.V. drove her and Father to the birthday party. (V.V. denied this.)

Later that September, Mother went to a laundromat to get change and ran into Father. She spoke with Father and showed him a photograph of Au.M. being held by another woman. Father became annoyed and said, "[w]hat do you want me to do about it?"

During the recorded telephone conversation, V.V. asked Mother, "why do you put up with this?" Mother had separated from Father at that time, but told V.V., "I have nowhere else to go," because Mother wanted V.V. to feel sorry for her. Mother wanted V.V. to believe Mother was still in a relationship with Father because, she testified, "I wanted one."

Mother considered herself to be a victim of domestic violence and participated in a domestic violence support group. She acknowledged having anger management issues that had to be resolved before she could reunify with her children. However, Mother did not tell her social worker about the domestic violence or anger management issues and did not request services to address them.

Mother was 28 years old at the time of the review hearing and had started using methamphetamine at age 17. She was participating in therapy and attending a substance abuse program, and had been sober since January 30, 2011. She previously had completed a four-month substance abuse and parenting program in Riverside County, and was participating in a 12-step program, but had not progressed past the first step.

Mother testified she did not want to live in a life of domestic violence because "it's dehumanizing" and she did not want A.M. and Au.M. "to grow up in a domestic violence lifestyle."

V.

The Juvenile Court's Ruling

At the close of the hearing on March 26, 2012, the juvenile court ordered termination of reunification services and set a section 366.26 hearing. Credibility was

"the key factor" in the court's decision. The court found Mother and Father to be not credible and found V.V. to be "completely credible." The court gave Bernal's testimony little weight because Bernal "could not remember many things" and "[t]he evidence shows father was not honest with Miss Bernal." The court also gave Perez's testimony little weight, "[c]onsidering the fact that the evidence shows father has been dishonest."

The court based its decision to a large extent on its finding that neither Mother nor Father had been honest. The court stated: "After hearing the testimony during trial and considering all the evidence, it is clear to the Court that neither parent has been honest, has any understanding or insight about domestic violence, how to recognize it and prevent it. Without honesty, the parents haven't even taken the beginning steps to address the issues. ¶ I have considered that it sometimes takes some time for parents to admit their responsibility and admit their part in domestic violence and start to truly be open and honest. But father has been in counseling and programs for many, many months. And mother, considering the other programs she did on her own and what she has done since reunification services were reinstated, has also been involved in programs for months. [¶] But given the depth of the dishonesty by the parents during this case and particularly during the trial, the parents simply do not appear to get it or appear to be close to getting it. Without honesty, insight, understanding, the Court does not believe that they can begin to understand how their issues, particularly domestic violence, affects their children and how to protect their children and keep them safe from harm both physically and emotionally. [¶] Clearly the parents have many issues to work on individually. As a couple, they are completely dysfunctional. Father continues to deny he's ever physically violent with mother. Father blames mother for all of it. He takes no responsibility for any domestic violence. In fact, it appears to the Court that father absolutely believes he has done nothing wrong. [¶] Mother continues to lie, to support and protect father and his lies. . . . $[\P]$ Whether the parents are just incapable of telling

the truth and recognizing domestic violence or it is total denial, the missing key element has been and is honesty."

The juvenile court also found that neither Father nor Mother had benefitted from services and neither had made "substantive progress" in their respective case plans. Based on the evidence, the court found there was no substantial probability Au.M. would be returned to Mother and Father by the time of the 12-month review hearing and, as to A.M., found no legal basis to "continue the case." The juvenile court found by clear and convincing evidence that returning A.M. and Au.M. to Mother and Father's physical custody would create a substantial risk of detriment "to the safety, protection, or physical or emotional well being of the child[ren]" and that Mother and Father had been provided reasonable services.

DISCUSSION

I.

The Law and Standard of Review

A.

Six-month Review Hearing Standards

The juvenile court conducted a six-month hearing on Au.M.'s dependency case. Except as otherwise provided, when a child is removed from parental custody, the juvenile court must order the social worker to provide child welfare services to the child and the parents. (§ 361.5, subd. (a).) At the six-month review hearing, "[i]f the child was under three years of age on the date of the initial removal, . . . and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days." (§ 366.21, subd. (e).) If the court finds "a substantial probability that the child . . . may be returned to his or her parent . . . within

six months or that reasonable services have not been provided," then the court must "continue the case to the 12-month permanency hearing." (*Ibid.*)

Under section 366.21, subdivision (e), the juvenile court makes two determinations. First, the juvenile court finds, under a clear and convincing evidence standard, whether the parent participated regularly and made substantive progress in the court-ordered treatment plan. (*M.V. v. Superior Court* (2008) 167 Cal.App.4th 166, 175 (*M.V.*).) If the juvenile court finds the parent did not participate regularly and did not make substantive progress in the treatment plan, then the court decides whether to schedule a hearing under section 366.26. (*M.V.*, *supra*, at pp. 175-176.) The court may, but is not required to, schedule a section 366.26 hearing. (*Id.* at p. 176.)

Second, the juvenile court determines whether (1) there is a substantial probability that the child may be returned to his or her parent within six months and (2) whether reasonable services have not been provided. (*M.V.*, *supra*, 167 Cal.App.4th at p. 176.) "The parent is also entitled to continued reunification services (with any necessary modifications) if the court makes either of these findings in favor of the parent. (*Ibid.*)

"In order to find a substantial probability that the child may be returned within the applicable time period, the court should consider the following factors along with any other relevant evidence: $[\P]$ a. Whether the parent or legal guardian has consistently and regularly contacted and visited the child; $[\P]$ b. Whether the parent or legal guardian has made significant progress in resolving the problems that led to the removal of the child; and $[\P]$ c. Whether the parent or legal guardian has demonstrated the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs." (Cal. Rules of Court, rule 5.710(c)(1)(D)(i).)

Eighteen-month Review Hearing Standards

The juvenile court conducted an 18-month review hearing on A.M.'s dependency case. At an 18-month review hearing, the child must be returned to the physical custody of the parent or parents unless the juvenile court finds by a preponderance of the evidence "that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.22, subd. (a).) Court-ordered reunification services may not be extended beyond 18 months from the date the child was removed from the parent's physical custody unless the juvenile court finds "there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended time period or that reasonable services have not been provided to the parent." (§ 361.5, subd. (a)(3).)

C.

Standard of Review

We determine whether substantial evidence supported the juvenile court's findings. (*Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, 1341; *Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705.) In doing so, we consider the evidence in the light most favorable to the juvenile court's order and resolve all conflicts in its support. (*In re David M.* (2005) 134 Cal.App.4th 822, 828.)

"By authorizing the continued removal of a child from parental custody based on the risk of either physical detriment or emotional detriment, sections 366.21 and 366.22 focus on the child's well-being at the time of the review hearing rather than on the initial basis for juvenile court intervention. [Citation.] Thus, while the court must consider the extent the parent has cooperated with the services provided and the efforts the parent has made to correct the problems which gave rise to the dependency [citation], the decision whether to return the child to parental custody depends on the effect that

action would have on the physical or emotional well-being of the child." (*In re Joseph B*. (1996) 42 Cal.App.4th 890, 899.)

II.

The Juvenile Court Did Not Err by Finding No Substantial Probability of Returning Au.M. to Mother's Physical Custody Within Six Months.

Mother argues the juvenile court erred when it found no substantial probability Au.M. may be returned to Mother's care before the 12-month review hearing. Mother does not challenge the juvenile court's finding as to A.M.

The juvenile court expressly found that Mother and Father failed to make substantive progress in their court-ordered treatment plans and impliedly found that each of them failed to demonstrate the capacity and ability to complete the objectives of the treatment plan and to provide for Au.M.'s safety, protection, physical and emotional health, and special needs. These findings were based in large part on the court's credibility determinations: The court gave little weight to Bernal's testimony and Perez's testimony, did not believe Mother and Father were truthful or had the ability to be truthful, found McCallister "had good insight into what was occurring," and believed V.V. to be "completely credible." As a reviewing court, we do not reevaluate witness credibility. (*People v. Albillar* (2010) 51 Cal.4th 47, 60.)

The evidence relied upon by the juvenile court established that Father had committed acts of domestic violence against Mother, and both Father and Mother lied about those acts and did not understand how they affected A.M. and Au.M. "Both common sense and expert opinion indicate spousal abuse is detrimental to children." (*In re E.B.* (2010) 184 Cal.App.4th 568, 576.) "Father's past violent behavior toward Mother is an ongoing concern. '[P]ast violent behavior in a relationship is "the best predictor of future violence."" (*Ibid.*)

As Mother points out, neither the juvenile court nor any party challenged her sobriety, which she achieved in January 2011. Mother argues her sobriety "constitutes significant progress and strongly suggests [she] possesses both the ability and capacity to achieve the treatment objectives and keep her child safe from harm." Mother's sobriety indeed was progress, but it was one factor for the juvenile court to have considered in determining whether Mother had made substantial progress toward achieving the goals of her case plan. Her case plan goals also included demonstrating progress in a domestic violence prevention plan and participation in therapy "to address domestic violence and anger management issues." The juvenile court listened to the testimony, weighed the evidence, and found Mother had not made substantive progress in her case plan.

Mother argues, "there is no evidence in the record to suggest that [Mother] will return to a relationship with Father or that she will engage in violence with anyone else." We disagree. The juvenile court found that Mother still harbored deep feelings for Father, minimized and took the blame for the domestic violence, lied to protect Father, and colluded with him to present rehearsed testimony. Substantial evidence supported those findings. V.V. testified Mother and Father arrived together to visit Au.M. on August 20, 2011 and at the birthday party on September 4, 2011. Mother testified she spoke by telephone once or twice a week with Father from the time they broke up in July 2011 until about five or six months before the review hearing. Mother testified that on August 20, 2011, she wanted V.V. to believe she was in a relationship with Father, even though Mother and Father had separated by that time, because she "wanted one."

In her testimony, Mother denied Father ever slapped her and downplayed his acts of domestic violence. Her testimony was contradicted by police reports and evidence of V.V.'s telephone conversations with Mother and Father. The court, which saw and heard Mother and Father testify, concluded they had colluded in rehearsing their

testimony, and we have no reason to doubt the court's judgment. In addition, Mother had a long history of unresolved anger management issues.

As of the date of the ruling, Mother had had only 56 days of reunification services for Au.M. She had been denied services under section 361.5, subdivision (b)(10) at the jurisdictional/dispositional hearing because reunification services previously had been terminated for Au.M.'s half siblings. She delayed seeking services until January 2012, leaving herself a limited period of time before the six-month review hearing in which to attempt compliance.

Mother's denial of domestic violence, inability to confront the issue, and desire to protect Father, demonstrate, as the court found, she had not made substantive progress in her case plan and could renew her abusive relationship with Father. We agree with county counsel that "[t]here was a clear risk that Mother would subject Au[.M.] to domestic violence—with Father or some[one] else."

III.

The Juvenile Court Did Not Err by Finding No Substantial Probability of Returning A.M. or Au.M. to Father's Physical Custody.

In his reply brief, Father argues for the first time substantial evidence did not support the court's finding that he failed to participate and progress in court-ordered services. He argues that for the final nine months of A.M.'s dependency case and for the entire time of Au.M.'s dependency case, he "complied with every social services requirement." He complains that despite his compliance with his case plan, and progress in therapy, he was not allowed any unsupervised visits with A.M. or Au.M. Anger literally drips from the pages of Father's reply brief. He claims the juvenile court ignored the evidence favorable to him by employing the "neat trick" of discounting the testimony of Bernal and Perez. "This father feels betrayed by the system, as well he should. He did

all that was asked of him, but now because one person thinks he was not honest, though the 52 week course instructors and the two professional therapists with whom he spent far more time disagree, he will lose his children? What evidence did the court cite? One statement about one slap a year ago. Now the father loses his chance to ever have a relationship with his two children. Is that reasonable? Is that good faith? Is that the way the Court system is supposed to work?"

Father's argument, though no doubt sincere, seriously misstates the evidence and defies the juvenile court's crucial role in assessing the credibility of witnesses. The court did not believe Father and did believe McCallister and V.V. The evidence established that Father was arrested for domestic violence after the Irvine Incident, the Courthouse Headbutting Incident, and the Moreno Valley Incident. The last arrest resulted in his conviction, for which he was required to participate in a 52-week counseling program. Despite participating in counseling, Father hit Mother in August 2011, an act he admitted in a recorded telephone conversation with V.V. At the same time, Mother told V.V. that Father hit her all the time.

Father did not tell the truth when he testified he never slapped Mother, and his account of the Irvine Incident and the Moreno Valley Incident was at odds with police reports. Tellingly, Father did not inform Perez of those incidents or the Courthouse Headbutting Incident. Perez testified that other than the Truck Incident, Father never told Perez of any time in which Father hit Mother. Evidence that Father lied about domestic violence, and failed to fully disclose his acts of domestic violence to his therapist, fully supported the court's finding that Father did not have "even a basic understanding of the issues." Father's lack of understanding of the issues demonstrated that he failed to make substantive progress in his court-ordered treatment plan and failed to demonstrate the capacity and ability to complete the objectives of the plan.

At oral argument, Father's counsel cited *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738 (*Blanca P.*), in which this court issued a writ of mandate

vacating an order terminating reunification services and scheduling a section 366.26 hearing. In *Blanca P.*, a subsequent petition alleged the father sexually abused his daughter. (*Id.* at p. 1741.) While the parents "faithfully" attended therapy in compliance with their case plan, a psychologist conducted an in-depth study of the entire family and exonerated the father of all sexual abuse charges. (*Id.* at pp. 1741-1742, 1745-1746.) However, the social worker concluded the parents had failed to "internalize" proper parenting skills as a result of the mother's refusal to believe her husband was a child molester. (*Id.* at p. 1751.)

This court bluntly rejected the social worker's opinion as a basis to terminate reunification services: "Let us be plain. The idea that, despite enduring countless hours of therapy and counseling (much of it predicated on the possibly erroneous assumption that her husband is a child molester), a parent who has faithfully attended required counseling and therapy sessions must still relinquish her child because she has not quite 'internalized' what she has been exposed to has an offensive, Orwellian odor. The failure to 'internalize' general parenting skills is simply too vague to constitute substantial, credible evidence of detriment." (*Blanca P., supra*, 45 Cal.App.4th at p. 1751, fn. omitted.)

Father argues that he, as the parents in *Blanca P.*, dutifully attended all therapy sessions, counseling sessions, and parenting courses (at least during the final six months of services), and, therefore, the social worker's belief he was not making progress and learning was not sufficient to terminate reunification services. There is, however, a critical difference between *Blanca P.* and this case. In *Blanca P.*, the psychologist exonerated the father of all sexual abuse charges, while, in this case, the two therapists did not exonerate Father of domestic violence charges, and substantial evidence supported findings that Father engaged in domestic abuse against Mother. The therapy and counseling in this case, unlike the services required in *Blanca P.*, were not predicated on a "possibly erroneous assumption." (*Blanca P.*, *supra*, 45 Cal.App.4th at p. 1751.)

Nor do we read *Blanca P*. as concluding a parent's attendance at required therapy and counseling sessions alone is enough to establish compliance with a case plan. The obvious goal of including therapy, counseling, and parenting classes in a reunification plan is for the parent to learn and to progress in resolving the issues that led to detention. Going through the motions is not enough: A parent who has faithfully attended court-ordered therapy, counseling, and parenting classes, but who has not learned from them, is not necessarily in compliance with the plan of reunification.

In reaching our conclusion, we do not rely on the incident in which Father supposedly lied about cancelling an appointment with the social worker. In the scheme of things, that incident is insignificant, even trivial. It has little bearing on Father's honesty, and to the extent it raises questions about McCallister's partiality, the juvenile court found McCallister was unbiased and had insight into what was going on.

IV.

Substantial Evidence Supported the Juvenile Court's Finding That Father Had Been Provided Reasonable Reunification Services.

Father argues he was not provided reasonable reunification services because SSA required him to change therapists in late 2011, and, by requiring him to change therapists so late in the reunification process, SSA "essentially undermined the father's ability to complete his counseling requirement." We review the juvenile court's finding that reasonable reunification services were offered or provided, for substantial evidence. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 598.) We conclude substantial evidence supported the finding that Father had been provided reasonable services.

Before addressing sufficiency of the evidence, we consider SSA's argument that Father's challenge to the reasonableness of reunification services is limited to those

provided after January 30, 2012. At the 12-month review hearing for A.M. on that date, the court found that reasonable services had been provided to Father. He did not appeal from the finding made at the 12-month review hearing, and, therefore, SSA argues he cannot challenge reasonableness of services provided before that finding was made.

Section 395, subdivision (a)(1) provides, in relevant part, "[a] judgment in a proceeding under Section 300 may be appealed in the same manner as any final judgment, and any subsequent order may be appealed as an order after judgment." Juvenile dependency law does not follow the usual prohibition against interlocutory appeals. (*In re T.G.* (2010) 188 Cal.App.4th 687, 692.) A parent may not challenge the validity of a prior appealable order for which the statutory time for filing an appeal has passed. (*Ibid.*)

In *In re T.G.*, *supra*, 188 Cal.App.4th at page 696, the court held a reasonable services finding made as part of a six-month review hearing order was adverse to a parent's interest in reunification and therefore was directly appealable. Although the juvenile court had continued reunification services, the Court of Appeal concluded the father was aggrieved by the reasonable services finding because the juvenile court also found the father was not in compliance with his case plan, the father's progress in mitigating or alleviating the causes necessitating placement was inadequate, and it was not reasonably probable the child would be returned to the father's custody. (*Id.* at p. 693.)

In contrast, in *Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1150 (*Melinda K.*) the Court of Appeal held the juvenile court's finding made at the six-month review hearing that reasonable services had been provided to the mother was not appealable. The court reasoned the mother was not aggrieved by that finding at the time it was made because the juvenile court had continued reunification services, had found the mother was in compliance with her case plan, and had taken no adverse action against her. (*Id.* at pp. 1150, 1152.)

This case is closer to *Melinda K*. than it is to *In re T.G*. At the 12-month review hearing for A.M., the juvenile court, in addition to finding reasonable services had been provided to Father, found he had made "moderate" progress toward alleviating or mitigating the causes necessitating placement, found there was a substantial probability that A.M. would be returned to his physical custody, and continued reunification services. Father, as the mother in *Melinda K*., was not aggrieved by the reasonable services finding made at the 12-month review hearing. That finding therefore was not directly appealable and may be challenged in this writ proceeding.

The evidence supported the juvenile court's finding that Father had been provided reasonable services. Indeed, by requiring Father to change therapists, SSA might have been trying to better his chances of reunification. The social worker reasonably believed Father's therapy sessions with Bernal were not adequately addressing the core issue of honesty. Although Bernal testified that Father was making "good progress" in therapy with her, Perez testified Father had said at the beginning of therapy that Father had not been honest with Bernal and had difficulties with her. Father did not tell Bernal about hitting Mother in August 2011 and told Bernal he was having no contact with Mother. Perez described honesty as the "breakthrough issue" for Father's treatment.

In approving the change in therapists, the juvenile court stated: "I do want him to go to the other therapist. If he wants to continue with Ms. Bernal, he can continue with Ms. Bernal on his own But I do want some additional information from another therapist." SSA's status review report for Au.M., dated February 21, 2012, notes that "[o]n January 31, 2012, the father reported to be satisfied with the services he is receiving currently and did not believe he needs additional services." Father testified that Perez was "more objective and more direct" than Bernal and gave him more direct advice. Father testified, "[t]hat's what I need, yes."

SSA was required to offer Father services that were "reasonable under the circumstances," not services that were "the best that might be provided in an ideal world." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) Under the circumstances of this case, it was reasonable for the juvenile court to require Father to change therapists.

DISPOSITION

The petitions for writ of mandate are denied.

FYBEL, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.